



United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

July 14, 2014

745

Received & Inspected

JUL 21 2014

FCC Mail Room

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Wheeler:

As you may know, in the wake of the tragic railroad accident on September 12, 2008, in Chatsworth, California that resulted in the death of 25 people, Congress enacted the Rail Safety Improvement Act of 2008. This law mandates the installation of Positive Train Control (PTC) for commuter and freight rail systems. This is an essential, life-saving technology necessary to enhance the safety of our nation's railroads, and I remain a strong supporter of rapid implementation of this technology.

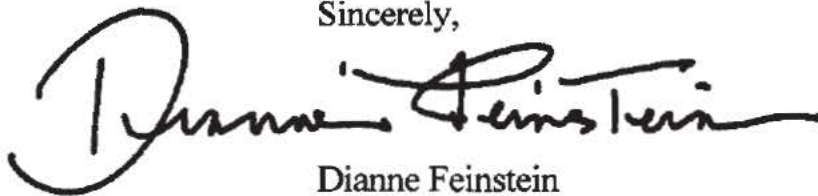
The Southern California Regional Rail Authority (Metrolink) is on track to be the first commuter railroad in the nation to implement PTC on its entire 512-mile system. They initially sought FCC approval for the acquisition of spectrum to implement PTC in March, 2010. I recognize that there have been several complications in this matter, including the bankruptcy of the company from which they contracted to purchase the spectrum. However, all filings have been completed, and the matter has been ripe for a decision by the FCC for more than a year, since June of 2013.

I respectfully request that the Commission move as expeditiously as possible to conclude its consideration of this application, so that Metrolink can have a permanent solution to its PTC spectrum needs, one way or the other. I understand that two distinct approvals for license transfers are needed from the FCC, from the bankrupt company to its creditors, and then from the creditors to Metrolink. If at all possible, I would urge you to make these decisions at the same time, to resolve this long-delayed matter as quickly as possible.

Please note that I am not addressing the merits of the issues raised relative to Metrolink's applications. I fully expect the Commission to dispose of those issues consistent with its statutory authority and applicable administrative and judicial precedent. But I encourage the Commission to take prompt steps to act on the Metrolink applications and related waiver requests, as this is an important matter of public safety.

Thank you very much for your attention to this matter. Should you have any questions or wish to discuss this matter, please do not hesitate to call me, or have a member of your staff call my Chief Counsel, Neil Quinter, at 202-224-4933.

Sincerely,

A handwritten signature in black ink, reading "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Dianne Feinstein
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 8, 2014

The Honorable Diane Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

Thank you for your letter encouraging the Commission to take prompt steps to act on the Metrolink applications and related waiver requests related to spectrum that could be used for Positive Train Control (PTC). Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

PTC is a transformative technology that has the power to save lives, prevent injuries, and avoid extensive property damage. It is a priority of the Commission to facilitate this important safety measure. FCC staff has been working and will continue to work with the Department of Transportation, the National Transportation Safety Board, railroads, and spectrum license holders to identify and facilitate secondary market transactions to make spectrum available for PTC operations.

With respect to Metrolink's specific requests, in April 2011, the Commission adopted an *Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing (OSC/HDO)*¹ designating Maritime Communications/Land Mobile, LLC's (MC/LM) basic qualifications to be a Commission licensee for hearing. The Commission also released a Public Notice, WT Docket 13-85, on March 28, 2013, which sought comment on whether the Commission should: (1) consent to the assignment of some or all of MC/LM's AMTS licenses to Choctaw under *Second Thursday*;² (2) consent to the assignment of some of MC/LM's AMTS licenses pursuant to footnote 7 of the OSC/HDO; (3) waive the construction and discontinuance-of-service rules for MC/LM's AMTS site-based stations; and (4) terminate its formal hearing, partially or otherwise, regarding MC/LM's basic qualifications.³

¹ See Maritime Communications/Land Mobile, LLC, *Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing*, EB Docket No. 11-71, 26 FCC Rcd 6520 (2011) (OSC/HDO).

² See *Second Thursday Corp.*, *Memorandum Opinion and Order*, 22 FCC 2d 515, *recon. granted*, *Memorandum Opinion and Order*, 25 FCC 2d 112 (1970) (permitting a bankrupt licensee, whose basic qualifications are at issue, to assign its licenses for the benefit of innocent creditors).

³ Comment Sought on Choctaw-MC/LM Assignment and Second Thursday Request, *Public Notice*, 28 FCC Rcd 3358 (WTB 2013).

On August 8, 2014, I circulated a draft item to my fellow Commissioners that addresses the Metrolink applications and other issues raised in the Public Notice. I am required to state that this proceeding is restricted under the Commission's *ex parte* rules (47 C.F.R. §§ 1.1200(a), 1.1208.) While I am restricted from discussing the merits of this case, I am hopeful that the Commissioners will vote expeditiously on this item. I recognize that the complexities of this issue are frustrating, but I am confident that the Commission's determination will be in the public interest, convenience, and necessity.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish extending from the end.

Tom Wheeler